

CHAPTER 143

(HB 277)

AN ACT relating to the public defender system and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 31 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *Effective July 1, 2024, employees of the Louisville and Jefferson County Public Defender Corporation shall be transferred to the Department of Public Advocacy within the Justice and Public Safety Cabinet.*
- (b) *On or before April 30, 2024, the Department of Public Advocacy shall notify each employee of the Louisville and Jefferson County Public Defender Corporation of the position comparable to their existing position, if one exists, or another position within the Department of Public Advocacy to which he or she may transfer on July 1, 2024.*
- (c) *No later than May 31, 2024, the Department of Public Advocacy shall submit to the Personnel Cabinet a list of all employees who will transfer from the Louisville and Jefferson County Public Defender Corporation to the department along with records of each employee's job classification, compensation, dates of employment, dates of professional licensure, probationary status, accumulated leave balances by category, months of service, and any other information necessary under KRS Chapter 18A.*
- (d) *The Personnel Cabinet shall assist the Department of Public Advocacy in implementing this section.*
- (2) *An employee transferred pursuant to subsection (1) of this section shall:*
- (a) *Be compensated by the Department of Public Advocacy at a salary no less than his or her salary in effect with the Louisville and Jefferson County Public Defender Corporation as of April 30, 2024, except an employee who is scheduled to complete employment probation as provided under subsection (3) of this section between May 1, 2024, and July 1, 2024, shall be compensated at a salary no less than his or her salary after completion of probation; and*
- (b) 1. *Retain his or her leave time balances accumulated as of the employee's last date of employment with the Louisville and Jefferson County Public Defender Corporation.*
2. *For any accumulated leave in a category that is different from a type of leave available to state employees under KRS Chapter 18A, the Personnel Cabinet shall determine which type of leave to convert the transferred leave.*
3. *When computing months of service for the purpose of determining leave time accumulation for an employee transferred under subsection (1) of this section, the employee's service begins on the earlier of the date of initial employment with the Louisville and Jefferson County Public Defender Corporation or the date of employment with a state agency.*
- (3) *Notwithstanding KRS 18A.111, employees transferred pursuant to subsection (1) of this section:*
- (a) *Who are appointed to classified positions within the Department of Public Advocacy and who are not on employment probation with the Louisville and Jefferson County Public Defender Corporation as of the date of transfer to the Department of Public Advocacy shall be appointed with status as defined in KRS 18A.005 without an initial probationary period; and*
- (b) *Who are appointed to classified positions within the Department of Public Advocacy and who are on employment probation with the Louisville and Jefferson County Public Defender Corporation as of the date of transfer to the Department of Public Advocacy shall be subject to an initial probationary period which shall terminate on the date probation was originally scheduled to terminate with the Louisville and Jefferson County Public Defender Corporation or six (6) months after the date of transfer to the Department of Public Advocacy, whichever is earlier.*

The Department of Public Advocacy shall include the probationary status and scheduled probation termination of each employee in its list of employees submitted to the Personnel Cabinet pursuant to subsection (1) of this section.

- (4) *Employees transferred pursuant to subsection (1) of this section shall be eligible to participate in the state-sponsored life and health insurance benefit programs administered by the Personnel Cabinet under KRS Chapter 18A. Employees shall be eligible for coverage under the life and health insurance programs effective July 1, 2024, and shall not be subject to any waiting period that may be otherwise applicable to participation in these programs.*
- (5) (a) *Employees transferred pursuant to subsection (1) of this section shall participate in the Kentucky Employees Retirement System as nonhazardous members pursuant to KRS 61.510 to 61.705.*
- (b) *For purposes of KRS 61.510 to 61.705, the membership date of an employee transferred pursuant to subsection (1) of this section shall be the earlier of:*
1. *The date upon which the employee began participating in the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other state-administered retirement system; or*
 2. *The date the employee began employment with the Louisville and Jefferson County Public Defender Corporation.*
- (6) *Notwithstanding KRS Chapter 45, 45A, 56, 65, 67, 67C, or 273, or any other provision of law to the contrary:*
- (a) *Any lease in the name of the Louisville and Jefferson County Public Defender Corporation in effect on June 30, 2024, relating to real property, equipment, goods, or other property, and any contract to which the Louisville and Jefferson County Public Defender is a party in effect on June 30, 2024, shall be transferred to the Department of Public Advocacy effective July 1, 2024, to the extent such leases or contracts are transferable or assignable;*
- (b) *A lease or contract transferred to and assumed by the Department of Public Advocacy under paragraph (a) of this subsection shall remain in place until its date of expiration or termination, whichever occurs first; and*
- (c) *Any equipment, goods, or other property owned in the name of the Louisville and Jefferson County Public Defender Corporation may be transferred to the Department of Public Advocacy, and any such equipment, goods, or property so transferred by the Louisville and Jefferson County Public Defender Corporation shall be assumed and retained by the Department of Public Advocacy for use in Jefferson County and shall not be subject to transfer to other divisions or departments within the Justice and Public Safety Cabinet or cabinets within the executive branch of state government without the approval of the public advocate.*
- (7) *The transfer of personnel and any assets from Louisville and Jefferson County Public Defender Corporation to the Department of Public Advocacy pursuant to this section shall not create a parent and subsidiary relationship, agency relationship, or any relationship under a respondeat superior theory or any other similar theory, either before or after the effective date of the transfer. The Department of Public Advocacy shall not be liable for any damages, losses, or injuries as the result of an act, omission, or negligence by the Louisville and Jefferson County Public Defender Corporation, its board of directors, officers, employees, agents, contractors, or any other person carrying out the mission of the Louisville and Jefferson County Public Defender Corporation. Claims made against the Louisville and Jefferson County Public Defender Corporation shall not be the responsibility of the Department of Public Advocacy, the insurer of any insurance policy maintained by the Department of Public Advocacy, or the Office of Claims and Appeals.*

➔Section 2. KRS 15A.020 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall have the following departments:
- (a) Department of Corrections;
 - (b) Department of Criminal Justice Training, which shall have the following divisions:
 1. Training Operations Division; and
 2. Administrative Division;
 - (c) Department of Juvenile Justice, which shall have the following offices and divisions:
 1. Office of Program Operations, which shall have the following divisions:

- a. Division of Western Region;
 - b. Division of Eastern Region; and
 - c. Division of Placement Services;
2. Office of Support Services, which shall have the following divisions:
 - a. Division of Administrative Services;
 - b. Division of Program Services; and
 - c. Division of Professional Development;
 3. Office of Community and Mental Health Services, which shall have the following division:
 - a. Division of Community and Mental Health Services;
 4. Office of Detention, which shall require that all detention centers report to one (1) supervisor who reports directly to the commissioner, and which shall have the following division:
 - a. Division of Transportation; and
 5. Division of Compliance;
- (d) Department of Kentucky State Police, which shall have the following offices and divisions:
1. Office of Administrative Services, which shall be headed by an executive director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the commissioner;
 - a. Division of Operational Support, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Administrative Services; and
 - b. Division of Management Services, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Administrative Services;
 2. Office of Operations, which shall be headed by an executive director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the commissioner;
 - a. Division of West Troops, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Operations;
 - b. Division of East Troops, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Operations;
 - c. Division of Special Enforcement, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Operations; and
 - d. Division of Commercial Vehicle Enforcement, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Operations; and
 3. Office of Technical Services, which shall be headed by an executive director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the commissioner;
 - a. Division of Forensic Services, which shall be headed by a director who shall have a minimum of a bachelor's degree in a natural science and at least seven (7) years of experience in an accredited forensic laboratory, who shall be appointed by the commissioner of the Department of Kentucky State Police, and who shall report to the executive director of the Office of Technical Services;

ACTS OF THE GENERAL ASSEMBLY

- b. Division of Electronic Services, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Technical Services; and
 - c. Division of Records Management, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Technical Services; and
- (e) Department of Public Advocacy, which shall have the following divisions:
- 1. Protection and Advocacy Division;
 - 2. Division of Law Operations;
 - 3. Division of Trial Services;
 - 4. Division of Post-Trial Services;~~{and}~~
 - 5. Division of Conflict *and Contract* Services; *and*
 - 6. *Division of Education, Strategic Planning, and Recruitment.*
- (2) Each department, except for the Department of Public Advocacy, shall be headed by a commissioner who shall be appointed by the secretary of the Justice and Public Safety Cabinet with the approval of the Governor as required by KRS 12.040. Each commissioner shall be directly responsible to the secretary and shall have such functions, powers, and duties as provided by law and as the secretary may prescribe. The Department of Public Advocacy shall be headed by the public advocate, appointed as required by KRS 31.020, who shall be directly responsible to the Public Advocacy Commission. The Department of Public Advocacy is an independent state agency which shall be attached to the Justice and Public Safety Cabinet for administrative purposes only. The Justice and Public Safety Cabinet shall not have control over the Department of Public Advocacy's information technology equipment and use unless granted access by court order.
- (3) The Justice and Public Safety Cabinet shall have the following offices and divisions:
- (a) Office of the Secretary, which shall be headed by a deputy secretary appointed pursuant to KRS 12.050 and responsible for the direct administrative support for the secretary and other duties as assigned by the secretary, and which, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - (b) Office of Human Resource Management, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible to and report to the secretary and be responsible for all matters relating to human resources, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - 1. Division of Human Resource Administration, which shall be headed by a director appointed pursuant to KRS 12.050 who shall report to the executive director of the Office of Human Resource Management; and
 - 2. Division of Employee Management, which shall be headed by a director appointed pursuant to KRS 12.050 who shall report to the executive director of the Office of Human Resource Management;
 - (c) Office of Legal Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 and 12.210, that:
 - 1. Shall provide legal representation and services for the cabinet; and
 - 2. May investigate all complaints regarding the facilities, staff, treatment of juveniles, and other matters relating to the operation of the Justice and Public Safety Cabinet. If it appears that there is a violation of statutes, administrative regulations, policies, court decisions, the rights of juveniles who are subject to the orders of the department, or any other matter relating to the Justice and Public Safety Cabinet, the office shall report to the secretary of the Justice and Public Safety Cabinet who shall, if required, refer the matter to a law enforcement agency, Commonwealth's attorney, county attorney, the Attorney General, or federal agencies, as appropriate. The office may be used to investigate matters in which there is a suspicion of violation of written policy, administrative regulation, or statutory law within the Department of Public Advocacy only when the investigation will have no prejudicial impact upon a person who

has an existing attorney-client relationship with the Department of Public Advocacy. Notwithstanding the provisions of this subparagraph, investigation and discipline of KRS Chapter 16 personnel shall continue to be conducted by the Department of Kentucky State Police pursuant to KRS Chapter 16. The office shall conduct no other investigations under the authority granted in this subparagraph. The secretary may, by administrative order, assign the investigative functions in this subparagraph to a branch within the office.

The executive director shall be directly responsible to and report to the secretary and, with the approval of the secretary, may employ such attorneys appointed pursuant to KRS 12.210 and other staff as necessary to perform the duties, functions, and responsibilities of the office;

- (d) Office of Legislative and Intergovernmental Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the provision of support to the Criminal Justice Council, legislative liaison services, and functions and duties vested in the Criminal Justice Council as described in KRS 15A.030. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
- (e) Office of Communications, which shall be headed by an executive director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall be responsible to report to the secretary and be responsible for all matters relating to communications, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - 1. Information and Technology Services Division, which shall be headed by a director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall report to the executive director of the Office of Communications;
- (f) Office of Financial Management Services, which shall be headed by an executive director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall be responsible to report to the secretary and be responsible for all matters relating to fiscal functions, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - 1. Division of Financial Management, which shall be headed by a director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall report to the executive director of the Office of Financial Management Services;
- (g) Grants Management Division, which shall be headed by a director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall be responsible to report to the secretary and be responsible for all matters relating to state and federal grants management, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
- (h) Office of the Kentucky State Medical Examiner, which shall be headed by a chief medical examiner appointed pursuant to KRS 72.240 who shall be responsible for all matters relating to forensic pathology and forensic toxicology and other duties as assigned by the secretary. The executive director appointed pursuant to KRS 12.050 shall be responsible for all matters related to the administrative support of the Office of the State Medical Examiner. The executive director shall report directly to the secretary and with the approval of the secretary may employ such administrative support staff as necessary to perform the administrative duties, functions, and responsibilities of the office. The chief medical examiner shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the forensic duties, functions, and responsibilities of the office; and
- (i) Office of Drug Control Policy, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the research, coordination, and execution of drug control policy and for the management of state and federal grants, including but not limited to the prevention and treatment related to substance abuse. By December 31 of each year, the Office of Drug Control Policy shall review, approve, and coordinate all current projects of any substance abuse program which is conducted by or receives funding through agencies of the executive branch. This oversight shall extend to all substance abuse programs which are principally related to the prevention or treatment, or otherwise targeted at the reduction, of substance abuse in the

Commonwealth. The Office of Drug Control Policy shall promulgate administrative regulations consistent with enforcing this oversight authority. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office.

➔Section 3. KRS 18A.115 is amended to read as follows:

- (1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:
 - (a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;
 - (b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;
 - (c) Members of boards and commissions;
 - (d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the Secretary of the Governor's Cabinet, and the Office of Program Administration;
 - (e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;
 - (f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his *or her* principal assistants;
 - (g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;
 - (h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the secretary approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the secretary. Effective August 1, 2010:
 1. All positions approved under this paragraph prior to August 1, 2010, shall be abolished effective December 31, 2010, unless reapproved under subparagraph 2. of this paragraph; and
 2. A position approved under this paragraph on or after August 1, 2010, shall be approved for a period of five (5) years, after which time the position shall be abolished unless reapproved under this subparagraph for an additional five (5) year period;
 - (i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;
 - (j) Physicians employed as such;
 - (k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;
 - (l) The judicial department, referees, receivers, jurors, and notaries public;
 - (m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;
 - (n) Patients or inmates employed in state institutions;
 - (o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;
 - (p) Interim employees;

- (q) Officers and members of the state militia;
 - (r) Department of Kentucky State Police troopers;
 - (s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;
 - (t) Superintendents of state mental institutions, including heads of centers for individuals with an intellectual disability, and penal and correctional institutions as referred to in KRS 196.180(2);
 - (u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;
 - (v) County and Commonwealth's attorneys and their respective appointees;
 - (w) Chief district engineers and the state highway engineer;
 - (x) Veterinarians employed as such by the Kentucky Horse Racing Commission;
 - (y) Employees of the Kentucky Peace Corps;
 - (z) Employees of the Council on Postsecondary Education;
 - (aa) Executive director of the Commonwealth Office of Technology;
 - (ab) Employees of Serve Kentucky;
 - (ac) Persons employed in certified teaching positions at the Kentucky School for the Blind and the Kentucky School for the Deaf;
 - (ad) Federally funded time-limited employees as defined in KRS 18A.005; and
 - (ae) Employees of the Department of Agriculture who are employed to support the Agricultural Development Board and the Kentucky Agricultural Finance Corporation.
- (2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.
- (3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.
- (4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.
- (5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.
- (6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.
- (7) On August 15, 2000, all certified and equivalent personnel, all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be

transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.

- (8) On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.
- (9) On May 1, 2017, all contract employees of Eastern Kentucky University who are engaged in providing instructional and support services to the Department of Criminal Justice Training shall be transferred to the personnel system under KRS Chapter 18A. All records shall be transferred, including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems for Eastern Kentucky University and under KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No employee shall suffer any penalty in the transfer.
- (10) *On July 1, 2024, all employees of the Louisville and Jefferson County Public Defender Corporation shall be transferred to the personnel system under KRS Chapter 18A. Records of each employee's job classification, compensation, dates of employment, dates of professional licensure, probationary status, accumulated leave balances by category, months of service, and any other information necessary under KRS Chapter 18A shall be transferred. The personnel officers who administer the personnel systems for the Louisville and Jefferson County Public Defender Corporation and under KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in the personnel authority. No employee shall suffer any penalty in the transfer.*

➔Section 4. KRS 61.510 is amended to read as follows:

As used in KRS 61.510 to 61.705, unless the context otherwise requires:

- (1) "System" means the Kentucky Employees Retirement System created by KRS 61.510 to 61.705;
- (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;
- (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- (5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- (6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;
- (7) "State" means the Commonwealth of Kentucky;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise

provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he *or she* serves in the position;

- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he *or she* received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he *or she* served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;
- (12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his *or her* individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited, on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, as prescribed by KRS 61.702(3)(b);
- (13) "Creditable compensation":
- (a) Means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall mean all amounts which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4);
- (b) Includes:
1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
 2. Cases where compensation includes maintenance and other perquisites, but the board shall fix the value of that part of the compensation not paid in money;
 3. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;
 4. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and
 5. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and
- (c) Excludes:
1. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board;

2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time;
 3. For employees who begin participating on or after August 1, 2016, nominal fees paid for services as a volunteer; and
 4. Any salary or wages paid to an employee for services as a Kentucky State Police school resource officer as defined by KRS 158.441;
- (14) "Final compensation" of a member means:
- (a) For a member who begins participating before September 1, 2008, who is employed in a nonhazardous position, the creditable compensation of the member during the five (5) fiscal years he or she was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;
 - (b) For a member who is employed in a nonhazardous position, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;
 - (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he or she was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
 - (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a nonhazardous position, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months; or
 - (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
- (16) "Retirement allowance" means the retirement payments to which a member is entitled;

- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.510 to 61.705;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits as established by 26 U.S.C. sec. 415;
- (20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;
- (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:
- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
 - (b) Emergency positions which are positions utilized by the employer during:
 - 1. An emergency as determined by the employer for a period not exceeding thirty (30) working days and are nonrenewable; or
 - 2. A state of emergency declared by the President of the United States or the Governor of the Commonwealth of Kentucky that are created or filled specifically for addressing the employer's needs during and as a result of the declared emergency;
 - (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months and are nonrenewable;
 - (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and
 - (e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;
- (22) "Vested" for purposes of determining eligibility for purchasing service credit under KRS 61.552 means the employee has at least forty-eight (48) months of service if age sixty-five (65) or older or at least sixty (60) months of service if under the age of sixty-five (65). For purposes of this subsection, "service" means service in the systems administered by the Kentucky Retirement Systems and County Employees Retirement System;
- (23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system. The term "parted employer" shall not include a department, board, or agency that ceased participation in the system pursuant to KRS 61.522;
- (24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

- (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (28) "Level percentage of payroll amortization method" means a method of determining the annual amortization payment on the unfunded actuarial accrued liability as expressed as a percentage of payroll over a set period of years but that may be converted to a dollar value for purposes of KRS 61.565(1)(d). Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period of time and the unfunded actuarially accrued liability shall be projected to be fully amortized at the conclusion of the set period of years;
- (29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;
- (30) "Person" means a natural person;
- (31) "Retirement office" means the Kentucky Public Pensions Authority's office building in Frankfort, unless otherwise designated by the Kentucky Public Pensions Authority;
- (32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543;
- (35) "Month" means a calendar month;
- (36) "Membership date" means:
- (a) The date upon which the member began participating in the system as provided in KRS 61.543;
 - (b) For a member electing to participate in the system pursuant to KRS 196.167(4) or 311A.022(2) who has not previously participated in the system or the Kentucky Teachers' Retirement System, the date the member began participating in a defined contribution plan that meets the requirements of 26 U.S.C. sec. 403(b);~~or~~
 - (c) For members bound by an educational contract as a conditional employee to the state of Kentucky prior to December 31, 2003, the date on which the educational contract became effective; **or**
 - (d) ***For a member participating in the system pursuant to Section 1 of this Act, the earlier of the date upon which the member began participating in the system under paragraph (a) of this subsection or the date the member began employment with the Louisville and Jefferson County Public Defender Corporation;***
- (37) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (24) of this section;
- (38) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
- (a) Is issued by a court or administrative agency; and

- (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (40) "Accumulated employer credit" mean the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597;
- (41) "Accumulated account balance" means:
 - (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
 - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit;
- (42) "Volunteer" means an individual who:
 - (a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and
 - (b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twelve (12) months following the retired member's most recent retirement date;
- (43) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars (\$500) per month with each participating employer. Compensation earned for services as a volunteer from more than one (1) participating employer during a month shall not be aggregated to determine whether the compensation exceeds the five hundred dollars (\$500) per month maximum provided by this subsection;
- (44) "Nonhazardous position" means a position that does not meet the requirements of KRS 61.592 or has not been approved by the board as a hazardous position;
- (45) "Monthly average pay" means:
 - (a) In the case of a member who dies as a direct result of an act in line of duty as defined in KRS 16.505 or who dies as a result of a duty-related injury as defined in KRS 61.621, the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the deceased member during his or her last twelve (12) months of employment; or
 - (b) In the case where a member becomes totally and permanently disabled as a direct result of an act in line of duty as defined in KRS 16.505 or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the disabled member during his or her last twelve (12) months of employment prior to the date the act in line of duty or duty-related injury occurred;
- (46) "Authority" means the Kentucky Public Pensions Authority as provided by KRS 61.505;
- (47) "Executive director" means the executive director of the Kentucky Public Pensions Authority; and
- (48) "Instructional staff" means the employees of a state college or university participating under KRS 61.520 who are:
 - (a) Faculty;
 - (b) Staff responsible for teaching; or
 - (c) Other individuals employed in an administrative position that is eligible for participation in the Teachers' Insurance and Annuity Association (TIAA) of the Teachers' Retirement System.

➔Section 5. This Act shall apply retroactively to an employee of the Louisville and Jefferson County Public Defender Corporation who was a member of its staff on September 30, 2023, and is subsequently appointed to a

leadership or supervisory position within the Department of Public Advocacy between October 1, 2023, and July 1, 2024.

➔Section 6. Whereas 2023 Ky. Acts ch. 144 requires the Department of Public Advocacy to assume the duties of local counsel representing indigent adults and juveniles accused of crimes and status offenses no later than July 1, 2024, and whereas it is critical to ensure the legal representation of these indigent persons, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 9, 2024.